IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.15862 of 2006

DATE OF DECISION: December 7, 2006

M/s Pathfinder Infosys Corporation

….Petitioner

VERSUS

Haryana State Industrial Development Corporation and others

….

Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S. BHALLA

PRESENT: Shri Arun Jain, Advocate for the petitioner.
Shri Ashok Jindal, Additional Advocate General,
Haryana for the respondents.

Viney Mittal,J.

The Haryana State Industrial Development Corporation (hereinafter referred to as the respondent Corporation) advertised the availability of plots of various sizes at IMT, Manesar and Udyog Vihar, Gurgaon. The petitioner applied for allotment of one such plot measuring 1800 square meters. Alongwith the application, a bank draft of Rs.3,96,000/- was sent to the Corporation. The petitioner proposed to set up a Computer Software and Designing Centre in the said plot. In the process of determining of the eligibility of various applicants, the allotment committee was satisfied with regard to feasibility of the project of the petitioner and its eligibility. Consequently, request of the petitioner for allotment of a plot was accepted. A regular letter of allotment was issued in favour of the

petitioner firm on December 13, 2004. Through the aforesaid allotment letter, plot No.305, Sector 8, IMT Manesar was shown to be allotted to the petitioner for a price of Rs.45,00,000/-. However, the area of the said plot was also indicated as 1800 square meters. A communication dated January 4, 2005 was also issued by the Corporation to the petitioner firm confirming the said allotment and also informing the petitioner firm that even financial assistance could be availed by it from the Corporation for the project. The petitioner firm was also required to execute an agreement with regard to the allotted plot. Consequently, on January 12, 2005, the petitioner firm conveyed its acceptance to the allotment of the aforesaid plot. As required, the petitioner firm also paid an amount of Rs.7,33,000/- (as per condition No.3 of the letter of allotment). Thereafter, it required the respondent Corporation to deliver the possession of the plot.

Later on, the petitioner firm realised that plot No.305, Sector 8, IMT, Manesar only measured 1000 square meters and not 1800 square meters, as mentioned in the regular letter of allotment dated December 13, 2004, therefore, the petitioner firm sent a communication in this regard to the respondent Corporation on June 15, 2006. On receipt of the aforesaid communication, the respondent Corporation rather than correcting the said mistake, sent a communication dated June 23, 2006 to the petitioner firm informing that the allotment of plot in question stood cancelled and the money deposited by the petitioner firm was ordered to be refunded through a cheque. A protest was raised by the petitioner firm to the aforesaid cancellation order and refund of the money through cheque. Consequently, the cheque of refund money was returned back by the

petitioner firm. The petitioner firm also filed an appeal before the Commissioner, Industries Department. However, it has been maintained by the petitioner firm that since the decision to cancel the plot had been taken by the respondent Corporation and the Commissioner Industries Department (Appellate Authority) was also a member of the Board of Directors of the Corporation, therefore, the right of appeal was wholly illusory and of no consequence.

It has been pleaded by the petitioner firm that, in fact, the respondent Corporation had committed a typographical error, inasmuch as, originally as per the application made by the petitioner firm and as per the process of allotment, a decision had been taken to allot plot No.305, Sector 6, IMT, Manesar measuring 1800 square meters to the petitioner firm but only on account of the aforesaid typographical error plot No.305, Sector 8, IMT, Manesar had been shown to be so allotted. In fact, the aforesaid plot in Sector 8 measured only 1000 square meters, whereas, the plot in Sector 6 (bearing the same number) was actually 1800 square meters and was intended to be allotted to the petitioner firm. The petitioner firm even requested for supply of information under the Right of Information Act and the minutes of the meeting of the Board of Directors held on January 28, 2006 were supplied to the petitioner firm. The aforesaid information is appended as Annexure P.7 with the present petition. On the basis of the aforesaid information, the petitioner firm has maintained that it was merely a case of typographical error, inasmuch as, the wrong sector had been mentioned while allotting the plot to the petitioner and rather than correcting the same, the respondent

Corporation had chosen to cancel the allotment of the petitioner. It is in these circumstances that the petitioner firm is before this Court.

The claim of the petitioner firm has been contested by the respondent Corporation. A written statement on behalf of the respondents No.1 and 2 has been filed. The basic facts are not disputed. Even the typographical error in the allotment letter has been conceded by the respondent Corporation. However, it has been maintained that since it was realised that plot qua which the allotment letter had been issued in favour of the petitioner firm i.e. plot No.305, Sector 8, IMT, Manesar stood already allotted in favour of one Amardeep Singh Mantaj on May 24, 2004, therefore, the allotment in favour of the petitioner firm was cancelled.

We have heard the learned counsel for the parties and have also gone through the record of the case.

In our considered opinion, the present petition deserves to be allowed.

As noticed above, the various facts pleaded by the petitioner firm, as detailed above, have not been disputed by the respondent Corporation. The eligibility of the petitioner firm has not been contested. It has not been contested that its request for allotment of a plot had been accepted by the respondent Corporation. It has also not been disputed that in pursuance to the application form and the deposit of the money by the petitioner firm, a plot had been allotted in favour of the petitioner firm. However, it appears that at the time of allotment of plot, the number of the plot was mentioned as plot No.305, Sector 8, IMT, Manesar, whereas, the correct number which should have been required to be mentioned was plot No.305,

Sector 6, IMT,Manesar. This plea of the petitioner firm is further supported from the fact that, whereas, plot No.305, Sector 8, IMT, Manesar measures 1000 square meters, plot No.305, Sector 6, IMT, Manesar measures 1800 square meters. As a matter of fact, plot No.305, Sector 8, IMT, Manesar stood already allotted in favour of Amardeep Singh Mantaj on May 24, 2004 and as such could not even have been allotted to the petitioner firm, whereas, plot No.305, Sector 6, IMT, Manesar was available for such allotment.

At this stage, it may also be relevant to notice the proposals placed before the Board of Directors in its 288th meeting held on January 28, 2006, which have been supplied to the petitioner as Annexure P.7. While presenting the facts of this case, it was noticed as follows:

> "As regards plot No.305, Sector 8, it is submitted that the actual size of this plot is 1012.50 square meters, whereas, in the allotment letter issued to the second party i.e. M/s Pathfinder Infosys Corpn. The area has been mentioned as 1800 square meters, which was available with the Corporation but due to typographical error, plot number was wrongly mentioned as 305, Sector 8."

In these circumstances, the following proposal was mooted:

> "1. That we may allot plot No.88, Sector 8, measuring 7875 square meters and plot No.305, Sector 6, measuring 1800 square meters to the second allottees i.e. M/s HMC Software Park Pvt. Ltd. and M/s Pathfinder Infosys Corpn. respectively."

It further appears from the various items proposed before the Board of Directors that some other cases of second/ subsequent allotments were also put up for consideration. With regard to the aforesaid second/subsequent allottees, a decision was taken by the Board of Directors that allotment of plots in favour of the second allottees be cancelled and the amount deposited by the party be refunded alongwith interest. However, it appears that the case of the petitioner, which was clearly a case of typographical error, was also clubbed alongwith the cases of second allotments, although there was no justification for the same.

At this stage, the plea raised by the respondent Corporation in para 11 of its written statement may also be noticed as follows:

> "That in reply to this para it is submitted that when the mistake regarding double allotment was discovered, a meeting of Board of Directors was held and a decision was taken to cancel the allotment to the subsequent allottee. It was found that due to typographical error plot No.305, Sector 8 was wrongly mentioned in the regular letter of allotment of the petitioner instead of plot No.305, Sector 6, IMT Manesar measuring 1800 square yards. In view of this, the amount was refunded and the allotment was cancelled."

From the stand taken by the petitioner firm that at the time of issuance of the regular letter of allotment a typographical mistake had occurred and keeping in view the stand taken by the

respondent Corporation in para 11 of the written statement, as noticed above, it is apparent that there is absolutely no justification for the respondent Corporation to cancel the allotment of the plot made in favour of the petitioner firm. Once the respondent Corporation has conceded that it was only a case of typographical mistake, then rather than correcting the aforesaid error, the respondent Corporation, without any justification, has chosen to cancel the allotment of the petitioner firm. This cannot be sustained.

As a result of the aforesaid discussion, the present writ petition is allowed. The order/communication dated March 23, 2006 (Annexure P.l0) issued by the respondent Corporation is quashed. The allotment of the plot in favour of the petitioner firm is restored. However, it is directed that the allotment of the plot in favour of the petitioner firm shall be with regard to plot No.305, Sector 6, IMT, Manesar measuring 1800 square meters. The petitioner firm shall remain bound by all the terms and conditions of the allotment with regard to the aforesaid plot.

We also direct that the possession of the aforesaid plot shall be delivered to the petitioner firm within a period of two months from the date a certified copy of this order is received.

A copy of this order be given dasti on payment of charges for urgent copies.

(Viney Mittal)
Judge

December 7, 2006
KD

(H.S. Bhalla)
Judge